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Alexandria, VA 22314

EXAMINER

TORRES, MARCOS L

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/529,697
Filing Date: October 20, 2005
Appellant(s): KRAUFVELIN ET AL.

Phouphanomketh Ditthavong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10-18-10 appealing from the Office action mailed 5-27-10.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-20 are rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

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subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,484,033	MURRAY	11-2002
20040203900	CEDERVALL	10-2004
7,203,502	WILSON	4-2007
6,169,899	HAVINIS	1-2001
7,024,195	MIRIYALA	4-2006
5,621,414	NAKAGAWA	4-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 4-6, 9-14, 16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray 6484033 in view of Cedervall 20040203900.

As to claim 1, Murray discloses a method comprising: receiving an area event notification request from a client [32] at a location service entity provided in association with the communication system [see col. 10, lines 19-30], the area event notification request containing information associated with the identity of a mobile station and a geographical area of interest [see col. 7, lines 53-65; col. 10, lines 19-24]; activating

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monitoring for an event indicative of a change in the presence status of the mobile station relative to said geographical area of interest; and signaling a notification to the client in response to detection of such event [see col. 10, lines 24-47; 59-65]. Murray does not specifically disclose providing information regarding services to the mobile station in response to a notification that the mobile station is present in the geographical area of interest. In an analogous art, Cedervall discloses providing information regarding services to the mobile station in response to a notification that the mobile station is present in the geographical area of interest (see par. 0022, 0024, 0051, 0069). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention was made to offer services based on location as suggested in par. 15, thereby increasing user satisfaction and increasing profits.

As to claims 4-6, Murray discloses a method wherein the monitoring is based on at least one location/routing/service area determined based on said information of the area of interest [see col. 11, lines 1-43; col. 12, line 56 - col. 13, line 35].

As to claims 9-10, Murray discloses method comprising cancelling the request for area event notifications, after the signaling notification step [col. 2, lines 1-17].

As to claims 11, Murray discloses a method wherein said signaling notification is responsive to detection of said event over a predetermined time period [col. 4, lines 45-59].

As to claims 12, Murray discloses a method wherein successive signaling within a predetermined time period is limited [col. 4, lines 45-59].

As to claims 13, Murray discloses a method according wherein an LCS client defines the predetermined time period such that successive signaling is limited [col. 4, lines 45-59].

As to claims 14, Murray discloses a method wherein a network operator defines the predetermined time period such that successive signaling is limited [col. 4, lines 45-59].

As to claims 16, Murray discloses a method wherein the step of receiving an area event notification request is responsive to a location update [see col. 4, lines 60 – col. 5, line 43].

As to claim 18, Murray discloses an apparatus, comprising: a location service entity [76] configured to receive an area event notification request from a client [32] containing information associated with the identity of a target mobile station and a geographical area of interest [see col. 7, lines 53-65]; col. 10, lines 19-24]; a monitoring configured to monitor, in response to receiving said request, for an event indicative of a change in the presence status of the target mobile station relative to said geographical area of interest and for signal a notification to the client in response to detection of such event [see col. 10, lines 24-47; 59-65]. Murray does not specifically disclose providing information regarding services to the mobile station in response to a notification that the mobile station is present in the geographical area of interest. In an analogous art, Cedervall discloses providing information regarding services to the mobile station in response to a notification that the mobile station is present in the geographical area of interest (see par. 0022, 0024, 0051). Therefore, it would have been obvious to one of

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the ordinary skills in the art at the time of the invention was made to offer services based on location as suggested in par. 15, thereby increasing user satisfaction and increasing profits.

As to claim 19, Murray discloses an apparatus wherein the monitoring entity provided in association with the target mobile station [see col. 4, lines 34-45].

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Cedervall and further in view of Wilson 7203502.

As to claim 2, Murray discloses everything as explained above except for a method wherein the monitoring is activated at the mobile station. In an analogous art, Wilson discloses a method wherein the monitoring is activated at the mobile station [see fig. 1b, first step, with item 102]. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to combine these teachings to provide location based services to the phone such as locating individuals and coordinating meetings.

6. Claims 3, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Cedervall and further in view of Havinis 6169899.

As to claims 3, 15 and 20, Murray discloses everything as explained above except for method wherein the monitoring is based on the identity of at least one cell of the communication system selected based on said information of the area of interest. Havinis et al further teaches wherein the monitoring is based on the identity of at least

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one cell of the communication system selected based on said information of the area of interest and area of interest is taken into consideration in cell selection. (Column 5, Lines 46- 50 and Column 2, Lines 42-46). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to combine these teachings to provide location based services to the phone such as locating individuals in a desired area.

7. Claims 7-8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Cedervall and further in view Miriyala 7024195.

As to claim 8, Murray discloses everything as explained above except for a method wherein the request contains further information regarding the event to reported, the further information defining whether entering or leaving of the area of interest shall be reported. In an analogous art, Miriyala discloses a method wherein the request contains further information regarding the event to reported, the further information defining whether entering the area of interest shall be reported [see col. 3, lines 42-60]. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to combine these teachings to send advertisement when entering in certain area.

As to claims 7 and 21, Murray discloses everything as explained above except for, wherein the area of interest is defined by means of the shape thereof. In an analogous art, Miriyala discloses wherein the area of interest is defined by means of the shape [size] [see col. 3, lines 42-60]. Therefore, it would have been obvious to one of

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the ordinary skills in the art at the time of the invention to combine these teachings to send advertisement when entering in certain area.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Cedervall and further in view of Nakagawa 5621414.

As to claim 17, Murray discloses everything as explained above except for a method according further comprising confirming the location of the mobile station responsive to the signaling location, to ensure the location corresponds to the area of interest. In an analogous art, Nakagawa discloses confirming the location of the mobile station responsive to the signaling location, to ensure the location corresponds to the area of interest [see col. 1, lines 7-18]. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to combine these teachings to minimize errors.

(10) Response to Argument

A. Claims 1, 4-6, 9-14 and 18-19.

Appellant arguments that "in Cedervall et al., [is] in response to a request for location-based services, the location-based service, itself, not "information regarding services," as claimed, is provided"; first, it is noted that the claim does not further limit "information regarding services", thereby any information related, about, concerning the service may read on the claim; second, as appellant mention Cendervall discloses

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providing to the mobile device location-based services in response to a request (see par. 0024) with more details about the services in par. 0069-0070, such as location data, driving direction, or available local services which clearly reads on the limitation "information regarding services".

The next argument presented by the appellant recite: "Actually providing a service is not equivalent to providing information about that service. Connecting to AOL, for example, provides an Internet connection service to a user, but tells the user nothing about AOL, its policies, the company, etc., i.e., simply providing the service, per se, does not provide information about the service. Giving someone a camera, for example, provides no information about the camera; unless one is also given the instruction manual, or one obtains information about the camera, e.g., lens dimension, range, etc. by an inspection. Accordingly, the Examiner has erred in equating the provision of a service, itself, as providing information about that service"; in this argument appellant tries to limit the interpretation of the term "information regarding services" and uses a another term "providing information about that service". Each terminology has it is own scope and the examiner will respond with the terminology used by the claim, rather the terminology used in the arguments. For examination purposes "information regarding services" is being equated to information with respect or concerning a service and a service is a work done that benefits another. Providing information such as location data, driving direction, or available local services clearly reads on information regarding services, because the information is concerned to a service and no exclusion is presented in the claim (see par .0024, 0069, 0070).

In response to the argument: "nothing herein relates to "providing information regarding services to the mobile station in response to a notification that the mobile station is present in the geographical area of interest." Rather, the service is merely provided. Information is provided to the wireless unit in Cedervall et al. but that information is the information content sought by the wireless device; it is not information regarding services"; the information in Cendervall is concerned to a plurality of services and is in response to a notification that the mobile station is present in the geographical area, providing information that is directly related to the geographical area (see par .0024, 0069, 0070).

Accordingly, since the combination of the references applied discloses the limitation as claimed, a prima facie case of obviousness has been established with regard to the instant claimed subject matter.

Regarding the Murray reference appellant asserts: "the cited portion of Murray describes "event information," "event location," "event backup information," and "event criteria parameters," but does not describe either "an area event notification" or "receiving an area event notification request from a client."... "Thus, in Murray, any event information is received from the client (the Examiner identified the wireless communication device 32 as corresponding to the claimed client). This is in direct contrast to the claimed subject matter which recites "receiving an area event notification request from a client," i.e., the client requests area event notification; it does not send such event notification as would appear to be the case in Murray". As explained in the final office action according to the claim the area event notification to request a

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scheduled task, have two requirements an identity and a geographical area or location, and Murray discloses both [see col. 7, lines 53-65; col. 10, lines 19- 24]. As seen in fig. 6, the event notification includes time, location and criteria parameter which are a request to perform a task when there is match (see fig. 7, steps 166, 168; col. 10, lines 44-47). Murray also discloses that the event information is transmitted from the wireless communication device and stored in the server (see col. 10, lines 5-23), this information requires an ID to match the data (see col. 4, lines 21-24), otherwise the server would have no idea to whom the data belongs and unable to function. And when combined with Cedervall the requests are expanded to include the services presented in par .0024, 0069, 0070.

Appellant continues: "The cited portion of column 7 of Murray relates to an event schedule including an identification of the mobile device and receiving current time. No mention of location is made. The cited potion of column 10 discloses that event information may include event time and event location. Even assuming, arguendo, these two portions of Murray can somehow be taken together to form a teaching of a combination of identity and geographical information that could,arguendo, constitute "an area notification request," as alleged by the Examiner, the claimed subject matter is still not taught or suggested because the claim feature in question recites, "receiving an area event notification request from a client." The client in Murray is not requesting an area event notification. Thus, again, even assuming that the event information in Murray could be construed to correspond to the claimed "area event notification," which, Appellants assert, cannot be so construed, Murray teaches away from the instant

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claimed subject matter because in Murray, at best, any event information is received from the client; the client is not doing the requesting". The examiner points that appellant is doing a piecemeal analysis of the sections when the rejection is based on a combination. As admitted by the appellant column 7 discloses an event schedule including an identification of the mobile, column 10 discloses that event information may include event time and event location and as responded in the prior paragraph the area event notification is requesting to perform a task when there is match between the parameters for example id, time and location (see fig. 7, steps 166, 168; col. 10, lines 44-47).

Accordingly, since the combination of the references applied discloses the limitation as claimed, a prima facie case of obviousness has been established with regard to the instant claimed subject matter.

B. Claim 2

Appellant discloses that Wilson does not cure the deficiencies of Murray and Cedervall, however, as discussed in section A, there is no deficiency in the references presented above because the claim language used is broad and the references teach the limitation set in the claims.

As to appellant argument that: "claim 2 is patentable separately from independent claim 1 because the feature of "wherein the monitoring is activated at the mobile station" is absent from the teachings of Murray and Cedervall et al., as acknowledged by the Examiner, and Wilson et al. provides no incentive to the skilled

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artisan to modify the Murray/Cedervall et al. combination to provide this feature. If the Examiner considers the criteria match of Fig. 7 of Murray to correspond to the claimed activation of monitoring in the sense that the current location of a mobile device is compared to previously received event data and the comparison is indicative of whether a mobile device is within a certain geographical area, it is clear, from Murray that any such activation is not at the monitored mobile device but, rather, at application server 76 (see col. 10, lines 24-49). Thus, even if Wilson et al. did teach some activation of a monitoring function, there would have been no reason to modify Murray by including activation of a monitoring function at the mobile station since this would render Murray unsuitable for its intended purpose of using an application server for processing the event data and current location of a mobile device and comparing these values". This argument suffers from a deficiency because appellant is combining two different unrelated limitations. Claim 2 requires activating the monitoring at the mobile station, but it is silent regarding where the monitoring is taking place. Appellant is arguing that there is no motivation to combine because the monitoring is being done at a server, but as mentioned only the activation at the mobile is required. Murray discloses that the parameters used for the monitoring come from the wireless device 32 (see col. 10, lines 19-24). Although this could be seen as a suggestion that the parameters from the mobile device activate the monitoring, the reference, explicitly does not disclose that the activation is done at the mobile device. Wilson clearly recite that the user is the one who request the directions and has to "opt-in" before the location data is shared (see col. 6, lines 18-34, 50-59), thereby the activation comes for the user device. When combined

with Wilson and since Murray discloses that the controlling parameters are from the mobile device Wilson compliments Murray to add further additional control to the modified Murray's mobile device.

In view of the appellant's arguments directed to the rationale and there would be no need to place the activation of the monitoring "at the mobile device" to provide for these location based services; as mentioned Murray discloses that that the parameters used for the monitoring come from the wireless device 32 (see col. 10, lines 19-24). Wilson discloses the initial request to activate is done at the mobile 102 (see fig. 1b, item 102; col. 6, lines 18-22). When combined with Wilson and since Murray discloses that the controlling parameters are from the mobile device Wilson compliments Murray to add further additional control to the modified Murray's mobile device.

Also, appellant asserts "There is no disclosure within Wilson et al. indicative of wireless device 102 being the site at which activation of a monitoring operation occurs, as claimed". Murray already discloses the monitoring operation as shown in the parent claim (see col. 10, lines 24-47, 59-65). And Wilson discloses the initial request to activate, first step, comes from the mobile device 102 (see fig. 1b, item 102; col. 6, lines 18-22). When combined with Wilson and since Murray discloses monitoring and that the controlling parameters are from the mobile device, Wilson compliment Murray to add further additional control to the modified Murray's mobile device.

Appellant asserts "any such activation is at application server 76 in Murray, any modification to place control of the activation of monitoring at another location, i.e., at the mobile station, would revamp the entire operating system of Murray. Murray uses an

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application server for processing the event data and current location of a mobile device and then compares these values for further processing. If the monitoring took place at the mobile station in Murray, the application server would be unable to perform the functions allocated to it"; as mentioned in the second paragraph of this section the claim only requires to activate the monitoring at the mobile station, but it is silent regarding where the monitoring is taking place. Thereby, no monitoring at the mobile station is required, only the activation.

Additionally, appellant respond "Final Office Action, responsive to Appellants' argument that Wilson et al. does not disclose monitoring activated at the mobile station, the Examiner cites col. 19, lines 16-26 of the reference. However, as a review of this cited portion of the references reveals, the user of the mobile device can turn his/her location on or off as to make himself/herself "invisible." But, this teaching, in no way, indicates that the activation of the monitoring for an event indicative of a change in the presence status of the mobile station relative to said geographical area of interest is performed "at the mobile station.". It is noted that appellant in the argument is brining limitations from the parent claim in which Murray and Cendervall were used for showing the teachings, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). And as previously disclosed, only the activation needs to be done at the mobile device as claimed.

Accordingly, prima facie case of obviousness has been established regarding the subject matter of claim 2.

C. Claims 3, 15 and 20

Appellant discloses that Havinis does not cure the deficiencies of Murray and Cedervall, however, as discussed in section A, there is no deficiency in the references presented above because the claim language used is broad and the references teach the limitation set in the claims.

As to appellant's arguments that "there is no disclosure or suggestion in Havinis et al. of basing the monitoring of an operation as claimed (i.e., "monitoring for an event indicative of a change in the presence status of the mobile station relative to said geographical area of interest") "on the identity of at least one cell of the communication system selected based on said information of the area of interest.";It is noted that appellant in the argument is brining limitations from the parent claim in which Murray and Cendervall were used for showing the teachings, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Murray discloses monitoring for an event indicative of a change in the presence status of the mobile station relative to said geographical area of interest (see col. 10, lines 24-47, 59-65). Havinis discloses the monitoring based on cell id (see col. 2, lines 42-46; col.5, lines 32-66). Since the cell id is the most basic area already used to deliver phone calls to mobile devices, when

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combined with Murray services and location can be easily found because no new location areas has to be created.

Regarding appellant's arguments: "There is no indication therein, or in any other portion of Havinis et al., that "monitoring is based on the identity of at least one cell of the communication system selected based on said information of the area of interest." Thus, as claimed, monitoring is based on cell identity and the selection of the cell being identified is based on the information of the area of interest. Nothing in Havinis et al., or in the other two applied references, or in any combination thereof, discloses or suggests these claim features. Murray discloses monitoring for an event indicative of a change in the presence status of the mobile station relative to said geographical area of interest (see col. 10, lines 24-47, 59-65). Havinis discloses the monitoring based on cell id (see col. 2, lines 42-46; col.5, lines 32-66). Since the cell id is the most basic area already used to deliver phone calls to mobile devices, when combined with Murray services and location can be easily found because no new location areas has to be created.

Accordingly, prima facie case of obviousness has been established regarding the subject matter of claims 3, 15 and 20.

D. Claims 7, 8 and 21

Appellant discloses that Mirayala does not cure the deficiencies of Murray and Cedervall, however, as discussed in section A, there is no deficiency in the references presented above because the claim language used is broad and the references teach the limitation set in the claims.

In view of the appellant arguments: "there is nothing therein relative to defining an area of interest "by means of a shape of the area," as claimed. The only mention of a coverage area in the cited portion of the reference is that "the location-based grouping...can be used in any wireless network-based application that requires information regarding the location of subscriber units within a coverage area that is higher in resolution than that provided only by the wireless system transmitters." There is no indication of any concern by Miriyala et al. with the "shape" of the coverage area"; Mirayala discloses defining an area and its shape [when an area is defined, inherently a shape of the area is also defined] which is the area of interest when combined with Murray (see fig. 1 and 2; col. 3, lines 42-50; col. 4, lines 21-28).

Also appellant argument that: "Figure 1 of the reference may depict coverage areas 24 and 26 with a definite shape, but that is just an arbitrary and convenient way to depict such coverage areas in the context of the invention. There is, however, no indication, whatsoever, in Miriyala et al. that the area of interest is "defined by means of a shape of the area." There is no such definition of the area of interest in Miriyala et al"; as admitted by appellant the areas of Mirayala have a definitive shape and his area of interest is defined by that shape. Mirayala discloses defining an area by Cartesian points creating a shape of the area which is the area of interest (see fig. 1 and 2; col. 3, lines 42-50; col. 4, lines 21-28).

Accordingly, prima facie case of obviousness has been established regarding the subject matter of claims 7, 8 and 21.

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E. Claim 17

Appellant discloses that Nakagawa does not cure the deficiencies of Murray and Cedervall, however, as discussed in section A, there is no deficiency in the references presented above because the claim language used is broad and the references teach the limitation set in the claims.

Regarding appellant's argument "there is nothing therein relative to "confirming the location of the mobile station responsive to the signaling location, to ensure the location corresponds to the area of interest," Nakagawa discloses confirming the location of the mobile station responsive to the signaling or transmitting location, to ensure the location corresponds to the area (see col. 1, lines 7-18). Also, appellant states "The Examiner's rationale for combining Nakagawa with Murray and Cedervall et al., explained at page 10 of the Final Office Action, is "to minimize errors." This general rationale is so thin as to constitute no rationale at all, and clearly does not rise to the standard of articulated reasoning with some rational underpinnings" required in KSR", the technique of confirming a value or measurement in the case of location is a common and well-known technique to verify that the initial value or measurement are correct, thereby minimizing error. Confirming the data is a universally technique which provides the same predictable result of verifying the desired data for errors.

As to appellant arguments "there is no disclosure therein that the location corresponds to the area of interest," as claimed, and the Examiner has pointed to nothing to the contrary"; the details of the "area of interest" are not claimed in claim 17,

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but in the parent claim 1 and only ads that is geographical. The area of Murray is in the earth's surface, thereby is a geographical area (see fig. 1).

Accordingly, prima facie case of obviousness has been established regarding the subject matter of claim 17.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Marcos L Torres/

Examiner, Art Unit 2617

Conferees:

/George Eng/

Supervisory Patent Examiner, Art Unit 2617

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617